IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION No. 15346 of 2005

Between:

Anjuman-E-Badri (Dawoodi Bohra Jamat)

A Registered Society Vide No. 403 of 1990,
Door No.28/16/5, Suryabagh,

Visakhapatnam rep by its Secretary.

..... PETITIONER

AND

Visakhapatnam Muncipal Corporation

Visakhapatnam rep by its Commissioner.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly in the nature of writ of Mandamus by declaring the action of the respondent in trying to acquire the property for the purpose of road widening without issuing notice and following due process of law as illegal, arbitrary vioaltive of principles of natural justice and contrary to art.14 and 300a of the Constitution of India further consequently direct the respondent and its subordinates not to interfere with the property of the petitioner in block 56, T.S. No.1996/43B, Plot 44, situated in Daspalla Hills, Waltair Ward, Visakhapatnam without following due process of law.

Counsel for the Petitioner: MR.K.V.SIMHADRI

Counsel for the Respondent: MR.N.RANGA REDDY (SC FOR MNICIPAL CROP. VSP.)

The Court at the stage of admission made the following:

ORDER:

This writ petition is filed seeking a Mandamus, declaring the action of the respondent in trying to acquire the property of the petitioner society in Block 56, T.S.No.1196/43B, Plot 44, situated in Daspalla Hills, Waltair Ward, Visakhapatnam, without initiation of proceedings under Land Acquisition Act and without following the due process of law, as illegal and arbitrary.

Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the respondent/Municipality.

The learned counsel for the petitioner contended that the petitioner society is the absolute owner of the property mentioned in the writ petition and it has not encroached any Government site. It is his further contention that without initiating land acquisition proceedings, and without issuing any notice, the respondent is trying to acquire its property in the process of road widening.

On the other hand, the learned counsel for the respondent contended that on mere apprehension only, the petitioner filed this writ petition, and the respondent has not been taken any steps for acquiring the property of the petitioner society.

The Division Bench of this Court in ***P.Lakshmana Rao v. Executive Officer*** issued certain guidelines to be followed by the authorities in acquiring the properties of public for the purpose of widening roads. When a property is required for public purpose viz., for widening of roads or for any other purpose, the authorities straightaway cannot take the law into their hands and jump into the premises and

attempt to evict the occupants or dispossess them or demolish their property. Before taking any such action, the authorities concerned shall issue a notice notifying as to the nature of the property, the purpose for which it is required, to whom it belongs and the action proposed calling for explanation or objections, if any, from the occupants and after considering the said objections or explanations, the authorities shall pass appropriate orders, if necessary.

Following the guidelines issued by this Court in the above referred judgment, I deem it appropriate to dispose of the writ petition with a direction to the respondent not to take any steps for acquiring the property of the petitioner society, without following due procedure, without initiating land acquisition proceedings and without making any negotiations with the petitioner society.

The Writ Petition is, accordingly, disposed of. No order as to costs.

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ELIPE DHARMA RAO,J

Dated: 15.07.2005

Dsr

Note:

Issue operative portion by

Wire at party's costs.

B/o

Dsr

ASSISTANT REGISTRAR

To:

1. The Commissioner,

Visakhapatnam Muncipal Corporation,

Visakhapatnam

2. Two CD copies

*Form-NIC-OGS/WP{**MPL**}*